



Committee on Education Appropriations

**Thursday, February 23, 2006
9:00 a.m. - 5:00 p.m.
212 Knott**



Florida House of Representatives

Fiscal Council
Education Appropriations Committee

Allan Bense
Speaker

Joe Pickens
Chair

Agenda

Date: Thursday, February 23, 2006

Location: 212 Knott Building

Time: 9:00 a.m. – 5:00 p.m.

- I. Call to Order
- II. Opening Remarks
- III. Consideration of the following bill(s):
 - a. **HB 205** Student Financial Assistance by Kravitz
 - b. **HB 291 CS** Public School Grading System by Bean
 - c. **HJR 447 CS** Requiring 65 Percent of Education Funds for Classroom Related Instruction; Flexible Class Size Reduction Implementation by Pickens, Hasner, and Stargel
 - d. **HB 557** Uses of the District School Tax by Kendrick
- IV. Bright Futures Long Term Projections
 - a. Dr. Dan Cohen-Vogel, Senior Analyst, Office of Program Policy Analysis and Government Accountability
- V. Budget Workshop
- VI. Closing Remarks
- VII. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 205

Student Financial Assistance

SPONSOR(S): Kravitz

TIED BILLS:

IDEN./SIM. BILLS: SB 458

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Colleges & Universities Committee</u>	<u>9 Y, 0 N</u>	<u>Hatfield</u>	<u>Tilton</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Hammock</u>	<u>Hamon</u> <i>Kr. H.</i>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill prohibits a public university or community college from providing any student holding an F-1 or M-1 visa with financial assistance from state funds appropriated directly or indirectly to the institution or tuition or fee revenues generated by Florida residents. Financial assistance does not include compensation paid to students for assistantships or participation in work-study programs.

Such funds must be redirected to provide additional need-based financial assistance to eligible Florida residents. After the unmet need for such residents is fully satisfied without reliance on loans, any funds remaining must be used to provide merit-based financial assistance to eligible Florida residents.

This bill also creates reporting requirements for universities and community colleges.

The Department of Education reports that for the 2003-2004 academic year an estimated \$6.9 million from state funds and tuition and fee revenues would have been redirected to Florida residents enrolled in the State University System and an estimated \$1.3 million would have been redirected to Florida residents enrolled in the Florida Community College system. The Department of Education is currently in the process of gathering updated figures for the 2004-2005 academic year. See FISCAL COMMENTS section for further details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill creates reporting requirements for public universities and community colleges.

Empower families—The bill may give Florida residents previously unable to afford a higher education an opportunity to enroll in a public university or community college; however, this bill may also limit opportunities for foreign individuals or families by eliminating sources of financial assistance. The bill may also have the potential of decreasing the amount of private financial aid funds for Florida residents if institutions redirect such funds to foreign students in order to sustain the population of these students at an institution.

B. EFFECT OF PROPOSED CHANGES:

Background

The Federal Immigration and Nationality Act (Act) governs the admission of all foreigners to the United States. The Act provides two nonimmigrant¹ visa categories for persons wishing to pursue full-time academic or vocational studies in the United States. The "F" visa is reserved for a nonimmigrant wishing to pursue academic studies or language training. The "M" visa is reserved for a nonimmigrant wishing to pursue nonacademic or vocational studies.

Foreign students seeking to study in the United States may enter under an F-1 or M-1 visa provided they meet the following criteria:

- The student must be enrolled in an "academic" educational program, a language-training program, or a vocational program;
- The school must be approved by United States Citizenship and Immigration Services;
- The student must be enrolled as a full-time student at the institution;
- The student must be proficient in English or be enrolled in courses leading to English proficiency;
- The student must maintain a residence abroad which he or she has no intention of giving up; and
- The student must have sufficient funds available for self-support during the entire proposed course of study.²
 - Sufficient funds must equal the amount an institution estimates will be needed to cover tuition, room and board, books, and any other living expenses and may be in the form of one or a combination of the following:
 - An affidavit from a person financially sponsoring the student;
 - The student's personal bank account information;
 - Proof of a scholarship received by the student; and

¹ According to 8 U.S.C. § (a)(15)(F)(i), the term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens – an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study . . . at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States . . . which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student.

² <http://uscis.gov>

- Proof of financial aid that the student will be receiving.³

Effect of Bill

Currently, financial assistance for students may be funded from a variety of sources such as state appropriations, indirect state grants distributed through state agencies, federal grants, tuition and fee revenues, and private contributions. Beginning in the 2007-2008 academic year, this bill prohibits a state university or community college from using state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents to provide financial assistance to any student holding an F-1 or M-1 visa.

For purposes of this bill, financial assistance does not include compensation paid to students for assistantships or for participation in work-study programs. Universities use graduate student assistants to support classroom teaching and university research. Both community colleges and universities use work-study students to support academic and administrative institutional functions.⁴

State universities or community colleges that wish to provide financial assistance to students with F-1 or M-1 visas can provide assistantships and work-study programs or use private funds or tuition and fees from non-residents.

By December 31, 2006, each state university and community college must report to the President of the Senate and the Speaker of the House of Representatives the total amount of state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents that was used to provide:

- Financial assistance during the 2004-2005 academic school year to students holding F-1 or M-1 visas and
- Need-based financial assistance during the 2004-2005 academic school year to students classified as residents for tuition purposes.

This bill requires that state funds appropriated directly or indirectly to the institution or tuition or fee revenues generated by Florida residents be redirected to provide additional need-based financial assistance to eligible Florida residents.

The bill defines "eligible Florida resident" to mean a student classified at the time of initial enrollment at a state university or community college as a resident for tuition purposes pursuant to s. 1009.21, F.S.⁵ This definition prohibits students who become reclassified as a resident for tuition purposes from receiving the redirected aid.

The redirected funds must not be used to reduce or supplant the existing level of funding Florida residents currently receive for need-based financial assistance from state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents. After the unmet need for eligible Florida residents is fully satisfied without reliance on loans, any funds remaining must be used to provide merit-based financial assistance to eligible Florida residents.

³ Information received from a February 9, 2005, phone conversation with an employee of the Student and Exchange Visitor Program (SEVP), a division of U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of the Department of Homeland Security (DHS).

⁴ Florida Department of Education 2005 Legislative Bill Analysis, HB 21, January 21, 2005, at 3.

⁵ Section 1009.21(2), F.S., to qualify as a "resident for tuition purposes" a person must establish and maintain legal residence in this state for at least 12 months prior to qualification, make a statement as to his or her length of residence in the state, and further establish that such residence is not temporary but rather for the purpose of maintaining a "bona fide domicile".

By July 1, 2008, the state universities and community colleges must also report to the President and the Speaker on the number of Florida residents benefiting from financial assistance as a result of the redirected funds.

In the 2005 Department of Education (DOE) analysis, DOE found that Florida's public postsecondary students were not currently reported by the type of visa, but by student residency. The DOE also indicated that the ability to clearly identify which revenues are used for financial aid to international students would require some administrative and accounting modifications.⁶ The extent to which modifications, if any, have been made is not known. The DOE is currently working on providing updated information.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section to provide legislative intent; creates reporting requirements for state universities and community colleges; prohibits use of certain funds to provide financial assistance to certain foreign students; defines the term "eligible Florida resident;" and provides for redirection of funds to provide additional need-based financial assistance to eligible Florida residents.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

The DOE reports that for the 2003-2004 school year, an estimated \$6.9 million from state funds and tuition and fee revenues would have been redirected to Florida resident students enrolled in the State University System⁷ and that an estimated \$1.3 million from state funds and tuition and fee revenues

⁶ Florida Department of Education 2005 Legislative Bill Analysis, HB 21, January 21, 2005, at 2-3.

⁷ In March 2005, the Division of Colleges and Universities provided a spreadsheet noting that the \$6.9M that would have been redirected came from 1,246 students that held an F-1 visa, were enrolled in a state university and received state funding.

would have been redirected to Florida residents enrolled in the Florida Community College system.⁸ The DOE is currently in the process of gathering updated figures for the 2004-2005 academic year.

If reporting requirements and accounting systems have not yet been modified, then this bill may increase administrative costs due to new reporting requirements and the need to modify accounting systems to capture the information required in the bill. The fiscal impact of these modifications is indeterminate.⁹

According to the DOE 2005 analysis, there would be no increase or decrease in expenditures from this bill; instead, the use of certain funds would be redirected.¹⁰ Florida residents previously unable to afford a higher education may now have the opportunity to receive such education as a result of the redirected funds; however, this bill may limit opportunities for foreign individuals or families by eliminating sources of financial assistance that might otherwise have been received. The bill may also have the potential of decreasing the amount of private financial aid funds for Florida residents if institutions redirect such funds to foreign students in order to sustain the population of these students at an institution.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

2. Other:

Equal Protection

Both the Fourteenth Amendment to the United States Constitution and Article I, section 2 of the Florida Constitution guarantee equal protection of the laws to "persons," not only to citizens. This bill may raise constitutional concerns under these provisions.

While Congress may, in light of its plenary power over immigration,¹¹ generally make classifications based on citizenship as long as they are not arbitrary and unreasonable,¹² state or local laws which do so are subject to strict scrutiny. Such laws must seek to advance a compelling governmental interest and must be narrowly tailored to advancing that interest.¹³

It could be argued that the bill meets strict scrutiny requirements because the bill determines that it is a compelling governmental interest to use a portion of the state's resources to expand access to postsecondary education and to reduce student indebtedness. Expanding access and increasing financial assistance not only will encourage Florida residents to pursue postsecondary education, but also will produce economic benefits for the state by increasing the levels of higher educational attainment and earning potential of Florida's citizenry. In addition, it appears to be narrowly tailored to advance the interest of the state in that it only prohibits use of state funds to provide financial assistance to students with an F-1 or M-1 visa, and does not include those students receiving paid

⁸ In April 2005, the Division of Community Colleges & Workforce reported that the \$1.3 million that would have been redirected came from 532 community college students that held an F-1 visa.

⁹ Florida Department of Education 2005 Legislative Bill Analysis, HB 21, January 21, 2005, at 3.

¹⁰ *Id.*

¹¹ See Art. I, s. 8, U.S. Const. ("Congress shall have Power To . . . establish a uniform Rule of Naturalization[.]")

¹² See *Mathews v. Diaz*, 426 U.S. 67 (1976).

¹³ See *Bernal v. Fainter*, 467 U.S. 216 (1984).

compensation for assistantships or participation in work-study programs. Such students also may still receive financial assistance via federal and private monies.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 205

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A bill to be entitled

An act relating to student financial assistance; providing legislative intent to expand access to postsecondary education and reduce student indebtedness; requiring each state university and community college to report information relating to certain funds used to provide financial assistance to certain students; prohibiting the use of such funds to provide financial assistance to specified foreign students; defining the term "eligible Florida resident"; providing for the redirection of funds to provide additional need-based financial assistance to eligible Florida residents; requiring a report by state universities and community colleges; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) It is the intent of the Legislature to use a portion of the state's limited resources to expand access to postsecondary education and to reduce student indebtedness by increasing need-based financial assistance for Florida residents. Expanding access and increasing financial assistance will encourage Florida residents to pursue postsecondary education, which will produce economic benefits for the state by increasing the levels of higher educational attainment and earning potential of Florida's citizenry.

(2) By December 31, 2006, each state university and community college shall report to the President of the Senate

and the Speaker of the House of Representatives:

(a) The total amount of state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents that was used to provide financial assistance during the 2004-2005 academic year to students holding F-1 or M-1 visas.

(b) The total amount of state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents that was used to provide need-based financial assistance during the 2004-2005 academic year to students classified as residents for tuition purposes pursuant to s. 1009.21, Florida Statutes.

(3) Effective for the 2007-2008 academic year and each year thereafter:

(a) A state university or community college shall not use state funds appropriated directly or indirectly to the institution or tuition or fee revenues generated by Florida residents to provide financial assistance to any student holding an F-1 or M-1 visa.

(b) The amount of funds reported pursuant to paragraph (2)(a) shall be used by an institution to provide additional need-based financial assistance to eligible Florida residents. If the unmet need for eligible Florida residents is fully satisfied without reliance on loans, any remaining funds shall be used to provide merit-based financial assistance to eligible Florida residents.

(4) For purposes of this section, "eligible Florida resident" means a student classified at the time of initial

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enrollment at a state university or community college as a
resident for tuition purposes pursuant to s. 1009.21, Florida
Statutes.

(5) Funds redirected pursuant to this section shall be
additional funds for need-based financial assistance for
eligible Florida residents and shall not be used to reduce or
supplant the level of funding for need-based financial
assistance for such students.

(6) For purposes of this section, financial assistance
does not include compensation paid to students for
assistantships or participation in work-study programs.

(7) Each state university and community college shall
report to the President of the Senate and the Speaker of the
House of Representatives by July 1, 2008, the number of Florida
residents benefiting from the use of financial assistance
provided from the funds redirected pursuant to this section.

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 291 CS
SPONSOR(S): Bean and others
TIED BILLS:

Florida School Recognition Program
IDEN./SIM. BILLS: SB 500

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	10 Y, 1 N, w/CS	Beagle	Mizereck
2) Education Appropriations Committee		Eggers	Hamon <i>K.V.H.</i>
3) Education Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

House Bill 291 requires that each ungraded K-3 school be assigned the school grade of its feeder pattern school, as designated by the Department of Education (DOE) and verified by the school district. Under the provisions of the bill, the K-3 schools would be eligible to participate in the Florida School Recognition Program and students served by these schools may become eligible for the Opportunity Scholarship Program.

The bill sets an effective date of July 1, 2006.

The bill will have a neutral fiscal impact. Please see FISCAL COMMENTS section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility-- The bill enables previously ungraded K-3 schools to receive performance-based awards through the Florida School Recognition Program.

Empower Families-- The bill increases the number of schools that receive school grades, potentially increasing the number of students becoming eligible for Opportunity Scholarships.

B. EFFECT OF PROPOSED CHANGES:

The Florida School Recognition Program¹ provides financial awards to public schools as a reward for performance. Schools that maintain a grade of "A" or improve one letter grade receive an amount per student as determined in the General Appropriations Act. In Fiscal Year 2005-06, schools received \$100 per student for a total of \$134.1 million in School Recognition awards.

The Opportunity Scholarship Program² provides choice options to families of students assigned to or attending schools that have received a grade of "F" twice in a four year period. Families may remain at the "F" school, attend a "C" or higher performing school in the district, or attend a "C" or higher performing school in an adjacent district.

Currently, schools serving any combination of students in grades kindergarten through grade 3 do not receive a school grade because students in grades K-2 do not take the FCAT, and learning gains cannot be calculated with only grade 3 data. Ungraded K-3 schools are not eligible for the Florida School Recognition program. Likewise, students served by ungraded K-3 schools are not eligible for Opportunity Scholarships.

The bill requires that an ungraded K-3 school receive the school grade designation of its feeder pattern school if a feeder pattern can be designated by the DOE and verified by the school district. A feeder pattern exists if at least 60 percent of the students in the ungraded K-3 school progress to the graded school. This provision enables such schools to receive a school grade designation and qualify for the Florida School Recognition Program. The bill also makes students served by these schools eligible to receive Opportunity Scholarships.

C. SECTION DIRECTORY:

Section 1: Amends s. 1008.34, F.S., to provide school grades for certain K-3 schools.

Section 2: Amends s. 1002.38, F.S., to allow students served by certain K-3 schools to become eligible to participate in the Opportunity Scholarship Program.

Section 3: Amends s. 1008.36, F.S., to allow certain K-3 schools to become eligible to participate in the Florida School Recognition Program.

Section 4: Provides an effective date of July 1, 2006.

¹ Section 1008.36, F.S.

² Section 1002.38, F.S., also provides that a public school student's parent may request and receive from the state an opportunity scholarship for the student to enroll in and attend a private school; however, this provision of the Opportunity Scholarship Program has been held unconstitutional. Bush v. Holmes, ___ So. 2d. ___ (Fla. 2006), 31 Fla. L. Weekly S1, 31 Fla. Law Weekly S65. Also see: Constitutional Issues: Other.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

Please see the FISCALCOMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

Adding ungraded K-3 schools to the School Recognition Program will shift discretionary lottery dollars from school districts to school-based awards. Currently, 62% of graded elementary schools receive school recognition awards. There are presently 102 ungraded K-3 schools serving 12,404 K-3 students. The DOE estimates a potential fiscal impact of \$769,048 [12,404 students x 62% x \$100 = \$769,048].³

According to the DOE, there are currently no K-3 schools that would qualify for the Opportunity Scholarship Program under the provisions of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

On January 5, 2006, the Florida Supreme Court ruled that a portion of the Opportunity Scholarship Program violates article IX, section 1(a) of the Florida Constitution.⁴ The narrowly tailored opinion

³ Florida Department of Education, 2006 Legislative Bill Analysis for HB 291, dated November, 18, 2005.

⁴ Section 1002.38, F.S., provides that a public school student's parent may request and receive from the state an opportunity scholarship for the student to enroll in and attend a private school; however, this provision of the Opportunity Scholarship Program has been held unconstitutional. *Bush v. Holmes*, ___ So. 2d. ___ (Fla. 2006), 31 Fla. L. Weekly S1, 31 Fla. Law Weekly S65. Also see: Constitutional Issues: Other.

addressed only the issue of whether the Florida Constitution prohibits the state from expending public funds to allow students to use an opportunity scholarship to obtain a private school education in kindergarten through grade twelve, as an alternative to public school education. Students in schools graded "F" twice in a four year period still have the option of attending a school graded "C" or higher in their own or a neighboring school district. The court held that "through the OSP the state is fostering plural, nonuniform systems of education in direct violation of the constitutional mandate for a uniform system of free public schools." The court's decision does not commence until the end of the 2005-06 school year.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 10, 2006, the PreK-12 Committee favorably reported House Bill 291 with a strike-all amendment. This bill analysis reflects the bill as amended.

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CHAMBER ACTION

The PreK-12 Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the public school grading system;
amending s. 1008.34, F.S.; adding feeder pattern schools
to list of schools receiving a school grade; prescribing
circumstances in which a feeder pattern exists; amending
s. 1002.38, F.S.; allowing students served by feeder
pattern schools to participate in the Opportunity
Scholarship Program; amending s. 1008.36, F.S.; allowing
feeder pattern schools to participate in the Florida
School Recognition Program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 1008.34, Florida
Statutes, is amended to read:

1008.34 School grading system; district performance
grade.--

(3) DESIGNATION OF SCHOOL PERFORMANCE GRADE CATEGORIES.--A
school that serves any combination of students in kindergarten

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24 through grade 3 that does not receive a school grade because its
25 students are not tested and included in the school grading
26 system shall receive the school grade designation of a feeder
27 pattern school identified by the Department of Education and
28 verified by the school district. A school feeder pattern exists
29 if at least 60 percent of the students in the school serving a
30 combination of students in kindergarten through grade 3 are
31 scheduled to be assigned to the graded school. School
32 performance grade category designations itemized in subsection
33 (2) shall be based on the following:

34 (a) Timeframes.--

35 1. School performance grade category designations shall be
36 based on the school's current year performance and the school's
37 annual learning gains.

38 2. A school's performance grade category designation shall
39 be based on a combination of student achievement scores, student
40 learning gains as measured by annual FCAT assessments in grades
41 3 through 10, and improvement of the lowest 25th percentile of
42 students in the school in reading, math, or writing on the FCAT,
43 unless these students are performing above satisfactory
44 performance.

45 (b) Student assessment data.--Student assessment data used
46 in determining school performance grade categories shall
47 include:

48 1. The aggregate scores of all eligible students enrolled
49 in the school who have been assessed on the FCAT.

50 2. The aggregate scores of all eligible students enrolled
51 in the school who have been assessed on the FCAT, including

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Florida Writes, and who have scored at or in the lowest 25th percentile of students in the school in reading, math, or writing, unless these students are performing above satisfactory performance.

The Department of Education shall study the effects of mobility on the performance of highly mobile students and recommend programs to improve the performance of such students. The State Board of Education shall adopt appropriate criteria for each school performance grade category. The criteria must also give added weight to student achievement in reading. Schools designated as performance grade category "C," making satisfactory progress, shall be required to demonstrate that adequate progress has been made by students in the school who are in the lowest 25th percentile in reading, math, or writing on the FCAT, including Florida Writes, unless these students are performing above satisfactory performance.

Section 2. Paragraph (a) of subsection (2) of section 1002.38, Florida Statutes, is amended to read:

1002.38 Opportunity Scholarship Program.--

(2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.--A public school student's parent may request and receive from the state an opportunity scholarship for the student to enroll in and attend a private school in accordance with the provisions of this section if:

(a)1. By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school, including a feeder pattern

80 school, that has been designated pursuant to s. 1008.34 as
81 performance grade category "F," failing to make adequate
82 progress, and that has had 2 school years in a 4-year period of
83 such low performance, and the student's attendance occurred
84 during a school year in which such designation was in effect;

85 2. The student has been in attendance elsewhere in the
86 public school system and has been assigned to such school for
87 the next school year; or

88 3. The student is entering kindergarten or first grade and
89 has been notified that the student has been assigned to such
90 school for the next school year.

91
92 The provisions of this section shall not apply to a student who
93 is enrolled in a school operating for the purpose of providing
94 educational services to youth in Department of Juvenile Justice
95 commitment programs. For purposes of continuity of educational
96 choice, the opportunity scholarship shall remain in force until
97 the student returns to a public school or, if the student
98 chooses to attend a private school the highest grade of which is
99 grade 8, until the student matriculates to high school and the
100 public high school to which the student is assigned is an
101 accredited school with a performance grade category designation
102 of "C" or better. However, at any time upon reasonable notice to
103 the Department of Education and the school district, the
104 student's parent may remove the student from the private school
105 and place the student in a public school, as provided in
106 subparagraph (3)(a)2.

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107 Section 3. Subsection (3) of section 1008.36, Florida
108 Statutes, is amended to read:
109 1008.36 Florida School Recognition Program.--
110 (3) All public schools, including charter schools and
111 feeder pattern schools, that receive a school grade pursuant to
112 s. 1008.34 are eligible to participate in the program.
113
114 Notwithstanding statutory provisions to the contrary, incentive
115 awards are not subject to collective bargaining.
116 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 447 CS
SPONSOR(S): Pickens and others
TIED BILLS:

Class Size Requirements and Classroom Instruction Expenditures
IDEN./SIM. BILLS: SJR 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Choice & Innovation Committee</u>	<u>5 Y, 2 N, w/CS</u>	<u>Hassell</u>	<u>Kooi</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Eggers</u>	<u>Hamon</u> <i>K.W.H.</i>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The joint resolution proposes to amend Section 1 of Article IX of the Florida Constitution relating to public education.

The joint resolution moves the date required for full compliance with the constitution's class size reduction requirement from the beginning of the 2010 school year to the beginning of the 2009-10 school year. The joint resolution amends the method by which class size compliance is calculated so that class size is calculated by district average with no individual classroom having a teacher to student ratio of more than five students over the current constitutional cap. Furthermore, the joint resolution amends the constitution to state that class size compliance is calculated according to teacher-student ratio rather than teacher-classroom ratio.

The joint resolution requires that by the beginning of the 2009-10 school year and for each subsequent school year all school districts are required to expend at least sixty-five percent of total funds received by school districts for operational expenditures for purposes directly related to classroom instruction.

The joint resolution provides the governor with the authority to grant, partially grant, or deny a temporary waiver by a school district of the class size or the classroom instruction expenditure requirements in exceptional circumstances.

The joint resolution will have an indeterminate fiscal impact; however, there will be costs relating to placing the joint resolution on the ballot and publishing required notices. Please see the FISCAL ANALYSIS section of this analysis.

If the joint resolution is passed in the 2006 Legislative Session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect January 2, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The joint resolution revises the constitution's class size requirement to be calculated based on the district's average class size for students in prekindergarten through 12 and requires that all school districts spend at least sixty-five percent of all operational expenditures for purposes directly related to classroom instruction.

Safeguard Individual Liberty – The joint resolution provides the school districts with flexibility in assigning students and operating more efficiently by prioritizing funding in areas that will produce greater student achievement.

B. EFFECT OF PROPOSED CHANGES:

CONSTITUTIONAL AMENDMENT

Present Situation

Constitutional Requirement

On November 5, 2002, the electors of Florida approved an amendment to Art. IX, s.1 of the Florida Constitution relating to public education. The constitutional provision requires that the state legislature "shall make adequate provision to ensure that" there are a sufficient number of classrooms by the start of the 2010-11 school year so that a certain number of students is not exceeded in each classroom. The current constitutional provision sets forth the maximum class sizes as follows:

- Prekindergarten through grade 3 may not exceed 18;
- Grades 4 through 8 may not exceed 22; and
- Grades 9 through 12 may not exceed 25.

The constitutional provision further provides that beginning with the 2003-2004 fiscal year, the legislature shall provide sufficient funds to reduce the average number of students in the classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirement in 2010-2011. The requirements do not apply to extracurricular classes and the costs specifically associated with reducing class size are the responsibility of the state and not the local school districts.

Compliance

The Legislature subsequently enacted Senate Bill 30A (2003) which amended section 1003.03, F.S., to implement the class size amendment.

Section 1003.03(2)(a)(b), F.S., provides that beginning with the 2003-2004 fiscal year, each school district that is not in compliance with the maximum class size requirements is required to reduce the average number of students per classroom for each of the three grade groups by at least two students

per year.¹ Determination of the average number of students per classroom for each of the three grade groups shall be as follows:²

- Fiscal years 2003-2004 through 2005-2006 shall be calculated at district level.
- Fiscal years 2006-2007 through 2007-2008 shall be calculated at the school level.
- Fiscal years 2008-2009, 2009-2010, and thereafter shall be calculated at the individual classroom level.

School districts must consider, but are not limited to, implementing the following options in order to meet the required maximum constitutional class size and the required two student per year reduction:³

- Encourage dual enrollment courses.
- Encourage courses from the Florida Virtual School.
- Require no more than 24 credits to graduate from high school.
- Allow students to graduate from high school as soon as they pass the grade 10 FCAT and complete the courses required for high school graduation.
- Use innovative methods to reduce the cost of school construction costs.
- Use joint-use facilities.
- Adopt alternative methods of class scheduling, such as block scheduling.
- Redraw school attendance zones.
- Operate schools beyond the normal operating hours.
- Use a year-round school and other non-traditional calendars.
- Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction.
- Use any other approach not prohibited by law.

The Department of Education (DOE) has interpreted the class size constitutional provision and the above-referenced implementing statute as prohibiting the use of co-teaching or team teaching as a means by which to meet the class-size amendment's requirements relating to number of students per classroom.

Implementation Schedule

Pursuant to section 1003.03(4)(a), F.S., beginning in the 2003-2004 fiscal year, the DOE reviews compliance with class size reduction and if it is determined that a district has not complied with the statutory requirements for that year, the DOE is required to calculate the amount from the class size reduction operating categorical which is proportionate to the amount of the district's failure to comply with class size reduction. That amount is transferred by the Governor's office from the district's class size reduction operating categorical allocation to the district's fixed capital outlay appropriation to be used to meet the class size reduction requirements. However, the Legislative Budget Commission may approve an alternate amount of funds to be transferred if the Commissioner and the State Board of Education determine that a district has been unable to meet class size reduction requirements despite appropriate efforts to do so.

Beginning in the 2005-2006 school year and each year thereafter, each district identified by the DOE that has not met the class size reduction requirements will be reported to the Legislature and will be required to implement one of the following policies in the subsequent school year: year-round schools; double sessions; rezoning; or maximizing use of instructional staff by changing teacher loads and

¹ For purposes of determining the baseline from which each district's average class size must be reduced for the 2003-2004 school year, the DOE is required to use data from the February 2003 student membership survey updated to include classroom identification numbers. s. 1003.03(2)(c), F.S.

² Currently, the DOE is required to annually calculate each of these three average class size measures based on the October student membership survey.

³ s. 1003.03(3), F.S.

scheduling of planning periods, deploying school district employees who have professional certification to the classroom, using adjunct educators, operating school beyond the normal operating hours to provide classes in the evening, or operating more than one session during the day.⁴

Beginning in the 2006-2007 school year, the DOE, in addition to its enforcement authority in section 1008.32, F.S., must develop a compliance plan for each non-compliant district, that must include rezoning for maximum use of space while minimizing additional transportation costs.⁵

Appropriated Funds

As of the 2005-2006 school year, the Legislature has appropriated a total of \$3,752,187,943 toward reduction of class sizes pursuant to the constitutional requirement. Facilities funding was \$783,400,000 of that total while the remaining \$2,968,787,943 has been allocated toward operating expenses. The chart below shows the amount of funding spent on operating and facilities relating to class size:

Year	2003-04	2004-05	2005-06
Operating funds	468,198,634	972,191,216	1,507,199,696
Facilities funds	600,000,000	100,000,000	83,400,000
Total	1,068,198,634	1,072,191,216	1,590,599,696

District Compliance

The data listed below is taken from the DOE's class size compliance calculations and indicates that since '02-'03, class size in grades preK-3 has declined from 23.07 to 18.16, in grades 4 through 8 from 24.16 to 20.48, and in grades 9 through 12 from 24.10 to 22.96.

STATEWIDE DISTRICT CLASS-SIZE AVERAGES			
Year	Grades PreK – 3	Grades 4 – 8	Grades 9 – 12
2002-03	23.07	24.16	24.10
2003-04	20.54	22.43	24.06
2004-05	18.98	21.32	23.73
2005-06	18.16	20.48	22.96
Change from 2002-03	(4.91)	(3.68)	(1.14)

Pursuant to section 1003.03(4)(a), F.S., districts not in compliance with class size reduction requirements are subject to a transfer of class size operating funds to a capital outlay category which is proportionate to the district's failure to comply with class size reduction. In the 2003-04 fiscal year, \$1,479,948 was transferred for eight districts; in the 2004-05 fiscal year, \$1,076,719 was transferred for nine districts; and in the 2005-06 fiscal year, \$496,059 was transferred for one district. Noncompliance in fiscal year 2005-06 was limited to grades PK-3.

Classroom Instruction Expenditure

This joint resolution would require that all districts spend no less than 65 cents out of every dollar received for in-classroom expenditures. According to the definition of in-classroom expenditures of the National Center for Education Statistics (NCES), the average percentage of such expenditures within Florida's 67 school districts during the 2003-2004 school year was 59.19%.⁶

⁴ s. 1003.03(4)(b), F.S.

⁵ s. 1003.03(4)(c), F.S.

⁶ This figure was determined through data provided by the Florida Department of Education and has not been finalized by NCES.

Effects of Proposed Changes

Class Size Reduction

The joint resolution moves the date required for full compliance with the constitution's class size reduction requirement from the beginning of the 2010 school year to the beginning of the 2009-10 school year. It also clarifies that the constitutional class size requirements do not apply to virtual classes. The joint resolution amends the method by which class size compliance is calculated so that class size is calculated by district average with no individual classroom having a teacher to student ratio of more than five students over the current constitutional cap.

Furthermore, the joint resolution revises the current requirement to state that class size compliance is calculated according to student-teacher ratio rather than student-classroom ratio. This would change the current requirements for class size compliance to allow districts to use co-teaching, team teaching and other innovative methods to comply with class size reduction.

Changing the class size calculation method to school district average class size provides districts with flexibility to meet the class size requirements and reduces the likelihood that districts would have to implement the options required in s. 1003.03(3), F.S., to reduce class size in accordance with the current, more rigid requirements.⁷ The joint resolution requires the Legislature to continue to provide sufficient funds to reduce the school district average class size by at least two students per year until the school district average class size for each of the grade groupings does not exceed the district average class size requirement.

If the joint resolution were to be approved by the electors in the November 2006 election, then the class size calculations would be at the school district average consistent with the proposed amendment to the Constitution. Given that the current implementing statute still requires that in the fiscal years 2006-2007 through 2007-2008, compliance for each of the three grade groups is to be calculated by the average at the school level, section 1003.03(2)(b), F.S., would need to be amended in a separate bill to align with the amended class size requirements.

Classroom Instruction Expenditure Requirement

The joint resolution requires that by the beginning of the 2009-10 school year and for each subsequent school year all school districts are required to expend at least sixty-five percent of total funds received by school districts for operational expenditures for purposes directly related to classroom instruction. This provision will require districts to focus attention on more closely monitoring what funds are being spent in the classroom and how they can prioritize funding in areas that increase student performance.

For purposes of this Constitutional amendment, the joint resolution does not define "total funds" or "classroom instruction." Instead, the joint resolution provides that both total funds and classroom instruction will be defined by general law. If the joint resolution were to be approved by the electors in the November 2006 election, implementing legislation would determine the details of what constitutes total funds and expenditures on classroom instruction and compliance requirements.

Temporary Waiver

The joint resolution also provides the governor with the authority to grant, partially grant, or deny a temporary waiver by a school district of the class size or the classroom instruction expenditure requirements in exceptional circumstances.

⁷ These options are listed on page 3 of this analysis.

REVISION OR AMENDMENT TO THE STATE CONSTITUTION

Background

Amendments to Florida's Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizen's initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.⁸

Depending on the method, all proposed amendments or revisions to the Constitution must be submitted to the electors at the next general election 1) held more than ninety days after the joint resolution, 2) 180 days after the report of the Constitutional Revision Commission or Taxation Budget Reform Commission, or 3) for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election is to be held.⁹

Article XI, s.1, of the Florida Constitution provides for proposed changes to the Constitution originating with the Legislature:

SECTION 1: Proposal by legislature. – Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.¹⁰ If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.¹¹

The Florida Constitution provides that if the proposed amendment or revision is approved by the vote of electors, it is effective as an amendment to or revision of the Constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.¹²

Effects of Proposed Changes

HJR 447 proposes to amend Article XI, s.1, of the Florida Constitution. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect January 2, 2007.

C. SECTION DIRECTORY:

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections. The joint resolution proposes to amend Section 1 of Article IX of the Florida Constitution.

⁸ See Art. XI, ss. 1-4, and 6, Fla. Const.

⁹ See Art. XI, ss 2, 5, and 6, Fla. Const.

¹⁰ See Art. XI, s. 5(c), Fla. Const.

¹¹ See Art. XI, s.5(a), Fla. Const.

¹² See Art. XI, s.5(e), Fla. Const.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution does not appear to have a fiscal impact on state revenues.

2. Expenditures:

Class Size Requirement

As of the 2005-2006 school year, the Legislature has appropriated a total of \$3,752,187,943 toward reduction of class sizes pursuant to the constitutional requirement. Facilities funding was \$783,400,000 of that total while the remaining \$2,968,787,943 has been allocated toward operating expenses. The chart below shows the amount of funding spent on operating and facilities relating to class size:

Year	2003-04	2004-05	2005-06
Operating funds	468,198,634	972,191,216	1,507,199,696
Facilities funds	600,000,000	100,000,000	83,400,000
Total	1,068,198,634	1,072,191,216	1,590,599,696

The joint resolution has an indeterminate fiscal impact on meeting the class size reduction requirements. The original Revenue Estimating Conference for the 2002 constitutional amendment had estimated a range of approximately \$20 billion to \$27.5 billion in operating and capital outlay costs for meeting class size requirements through 2010-2011. Current expenditure trends appear to indicate this initial estimate was fairly accurate. The Governor's recommended budget includes \$2.13 billion for operating, which is an increase of \$622 million over the 2005-06 fiscal year. The DOE's legislative budget request projected a \$4.2 billion class size reduction school construction need spread over five years (2006-07 through 2010-11), with \$2.0 billion requested for the 2006-07 fiscal year. However, it is important to note the following:

- Statewide FTE projections have declined significantly since the DOE estimate,
- The DOE has received the districts' five-year capital outlay plan since the DOE estimate, and
- The DOE's estimate included the cost for student enrollment growth, which historically has been locally funded.

District needs related to class size change year-to-year as more accurate data on currently available classroom space is collected, student enrollment fluctuations are analyzed, and other student/teacher demographics change. The joint resolution authorizes changes in the current law and practice relating to flexibility in the use of funds, utilization of existing facilities, construction needs, and requirements for the recruitment and retention of teachers. This added flexibility may allow available funds to be used on district determined strategies that would have a greater impact on positive student achievement.

Revision of State Constitution

The Division of Elections with the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately \$37,000 in 2006-2007 fiscal year.

Non-Recurring**FY 2006-07**

Department of State, Division of Elections

Publication Costs

\$37,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**1. Revenues:**

The joint resolution does not appear to have any impact on local government revenues.

2. Expenditures:

The joint resolution does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Any direct impact on the private sector would be difficult to determine.

D. FISCAL COMMENTS:

See Fiscal Impact on State Government.

III. COMMENTS**A. CONSTITUTIONAL ISSUES:****1. Applicability of Municipality/County Mandates Provision:**

The mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The joint resolution does not raise the need for rules or rulemaking authority or direct an agency to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Passage of a joint resolution in a committee requires a simple majority vote.

The joint resolution amends the constitutional class size requirements, but it cannot amend the statutory enacting provisions for those requirements. If the electors of Florida approve the joint resolution then section 1003.03(2)(b), F.S., will need to be amended in a separate bill to align with the amended class size requirements.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 26, 2006, the Choice and Innovation Committee adopted one amendment and reported the bill favorably with a Committee Substitute (CS). The amendment revised the order of the ballot summary.

HJR 447

2006
CS

CHAMBER ACTION

The Choice & Innovation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

House Joint Resolution

A joint resolution proposing an amendment to Section 1 of Article IX of the State Constitution relating to public education.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 1 of Article IX of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IX

EDUCATION

SECTION 1. Public education.--

(a) The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate

HJR 447

2006
CS

provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

(b) To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that, by the beginning of the 2009-2010 ~~2010~~ school year and for each school year thereafter, there are a sufficient number of classrooms so that:

(1) The school district average ~~maximum~~ number of students who are assigned to each teacher who is teaching in public school classrooms for prekindergarten through grade 3 does not exceed 18 students and the number of students who are assigned to one teacher in an individual class does not exceed 23 students;

(2) The school district average ~~maximum~~ number of students who are assigned to each teacher who is teaching in public school classrooms for grades 4 through 8 does not exceed 22 students and the number of students who are assigned to one teacher in an individual class does not exceed 27 students; and

(3) The school district average ~~maximum~~ number of students who are assigned to each teacher who is teaching in public school classrooms for grades 9 through 12 does not exceed 25 students and the number of students who are assigned to one teacher in an individual class does not exceed 30 students.

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2006
CS

52 The class size requirements of this subsection do not apply to
53 extracurricular or virtual classes. Payment of the costs
54 associated with reducing class size to meet these requirements
55 is the responsibility of the state and not of local school
56 ~~schools~~ districts. Beginning with the 2003-2004 fiscal year, the
57 legislature shall provide sufficient funds to reduce the school
58 district average class size ~~number of students in each classroom~~
59 by at least two students per year until the school district
60 average class size for each of the grade groupings ~~maximum~~
61 ~~number of students per classroom~~ does not exceed the
62 requirements of this subsection.

63 (c) By the beginning of the 2009-2010 school year and for
64 each school year thereafter, at least sixty-five percent of
65 total funds, as defined by law, received by school districts for
66 operational expenditures shall be expended for purposes directly
67 related to classroom instruction, as defined by law.

68 (d) In exceptional circumstances a school district may
69 request from the governor a temporary waiver of the class size
70 requirements of subsection (b) or the classroom instruction
71 expenditure requirement of subsection (c), which the governor
72 may grant, partially grant, or deny.

73 (e) (1) ~~(b)~~ Every four-year old child in Florida shall be
74 provided by the state a high quality prekindergarten ~~pre-~~
75 ~~kindergarten~~ learning opportunity in the form of an early
76 childhood development and education program which shall be
77 voluntary, high quality, free, and delivered according to
78 professionally accepted standards. An early childhood
79 development and education program means an organized program

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CS

designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory, and moral capacities through education in basic skills and such other skills as the legislature may determine to be appropriate.

(2)~~(e)~~ The early childhood education and development programs provided by reason of this subsection ~~subparagraph (b)~~ shall be implemented no later than the beginning of the 2005 school year through funds generated in addition to those used for existing education, health, and development programs. Existing education, health, and development programs are those funded by the state as of January 1, 2002, that provided for child or adult education, health care, or development.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE IX, SECTION 1

REQUIRING 65 PERCENT OF EDUCATION FUNDS FOR CLASSROOM RELATED INSTRUCTION; FLEXIBLE CLASS SIZE REDUCTION IMPLEMENTATION.--Proposing an amendment to the State Constitution to require school districts to expend at least 65 percent of their operational funds for classroom related instruction as defined by law; to provide flexibility for school districts in meeting class size reduction requirements by calculating compliance at a school district average number of students who are assigned to a teacher in specified grades; to specify the maximum number of students who may be assigned to

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2006
CS

108 | one teacher in an individual class; to require implementation of
109 | the class size reduction requirements and the classroom
110 | instruction expenditure requirement by the beginning of the
111 | 2009-2010 school year and for each school year thereafter; to
112 | exempt virtual classes from the class size requirements; and to
113 | authorize, in exceptional circumstances, a school district to
114 | request from the Governor a temporary waiver of the class size
115 | reduction requirements or the 65-percent classroom instruction
116 | expenditure requirement.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 01

Bill No. HJR 447

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Education Appropriations
Committee

Representative(s) Vana offered the following:

Amendment (with ballot statement)

Remove line(s) 63-73 and insert:

(c) In exceptional circumstances a school district may
request from the governor a temporary waiver of the class size
requirements of subsection (b) which the governor may grant,
partially grant, or deny.

(d) (1) ~~(b)~~ Every four-year old child in Florida shall be

===== B A L L O T S T A T E M E N T A M E N D M E N T =====

Remove line(s) 98-116 and insert:

FLEXIBLE CLASS SIZE REDUCTION IMPLEMENTATION.--Proposing an
amendment to the State Constitution to require school districts
to provide flexibility for school districts in meeting class
size reduction requirements by calculating compliance at a
school district average number of students who are assigned to a
teacher in specified grades; to specify the maximum number of
students who may be assigned to one teacher in an individual

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

23 class; to require implementation of the class size reduction
24 requirements by the beginning of the 2009-2010 school year and
25 for each school year thereafter; to exempt virtual classes from
26 the class size requirements; and to authorize, in exceptional
27 circumstances, a school district to request from the Governor a
28 temporary waiver of the class size reduction requirements.

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Education Appropriations
2 Committee

3 Representative(s) Bendross-Mindingall offers the following:

4
5 **Amendment (with ballot statement)**

6 Remove line(s) 19-93 and insert:

7 SECTION 1. Public education.—

8 (a) The education of children is a fundamental value of
9 the people of the State of Florida. It is, therefore, a
10 paramount duty of the state to make adequate provision for the
11 education of all children residing within its borders. Adequate
12 provision shall be made by law for a uniform, efficient, safe,
13 secure, and high quality system of free public schools that
14 allows students to obtain a high quality education and for the
15 establishment, maintenance, and operation of institutions of
16 higher learning and other public education programs that the
17 needs of the people may require. To assure that children
18 attending public schools obtain a high quality education, the
19 legislature shall make adequate provision to ensure that, by the
20 beginning of the 2010 school year, there are a sufficient number
21 of classrooms so that:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

(1) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for prekindergarten through grade 3 does not exceed 18 students;

(2) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 4 through 8 does not exceed 22 students; and

(3) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 9 through 12 does not exceed 25 students.

The class size requirements of this subsection do not apply to extracurricular classes. Payment of the costs associated with reducing class size to meet these requirements is the responsibility of the state and not of local schools districts. Beginning with the 2003-2004 fiscal year, the legislature shall provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirements of this subsection.

(b) By 2009-2010, the average minimum salary for full-time public school teachers shall be no less than the national average beginning pay for public school teachers, as provided by law. By 2009-2010, the average salary for full-time public school teachers shall be no less than the national average, as provided by law. The increases in the beginning and average full-time public school teacher salaries shall be independent of employee benefits and shall not alter, jeopardize, or decrease existing employee benefits. Payment of the costs associated with increasing beginning and average teacher pay is the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

responsibility of the state and not of school districts. Nothing in this subsection shall impair collective bargaining. The provision of this subsection shall take effect July 1 following approval by the electors.

(c) ~~(b)~~ Every four-year old child in Florida shall be provided by the State a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which shall be voluntary, high quality, free, and delivered according to professionally accepted standards. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

(d) ~~(e)~~ The early childhood education and development programs provided by reason of subparagraph (b) shall be implemented no later than the beginning of the 2005 school year through funds generated in addition to those used for existing education, health, and development programs. Existing education, health, and development programs are those funded by the State as of January 1, 2002 that provided for child or adult education, health care, or development.

===== B A L L O T S T A T E M E N T A M E N D M E N T =====

Remove line(s) 98-116 and insert:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

ESTABLISHING BEGINNING AND AVERAGE TEACHER SALARIES.--

Proposes an amendment to Section 1 of Article IX of the State Constitution to require that by 2010, the average minimum salary for full-time public school teachers shall be no less than the national average beginning pay for public school teachers, as provided by law; to require that, by 2010, the average salary for full-time public school teachers shall be no less than the national average, as provided by law; to provide that the increases in the beginning and average full-time public school teacher salaries shall be independent of employee benefits and shall not alter, jeopardize, or decrease existing employee benefits; to provide that payment of the costs associated with increasing beginning and average teacher pay is the responsibility of the state and not of school districts; to provide that nothing in this amendment providing for beginning and average teacher salaries shall impair collective bargaining; and to provide for taking effect July 1 following approval by the electors.

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Education Appropriations
Committee

Representative(s) Antone offered the following:

Amendment (with ballot statement)

Strike line 68 - 73 and insert:

(d) Classroom instruction means: salaries and benefits for teachers and paraprofessionals; costs for instructional materials and supplies; costs associated with classroom related activities that include field trips, athletics, music and arts; tuition paid to out of state school districts and private institutions for special needs students; costs for plant operations and maintenance; food services; transportation; instructional and student support including media centers, teacher training, nurses, guidance counselors, and school resource officers.

(e) In exceptional circumstances a school district may request from the governor a temporary waiver of the class size requirements of subsection (b) or the classroom instruction expenditure requirement of subsection (c), which the governor may grant, partially grant, or deny.

(f) (1) ~~(b)~~ Every four-year old child in Florida shall be

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment No. 03

===== B A L L O T S T A T E M E N T A M E N D M E N T =====

Remove line(s) 98-116 and insert:

REQUIRING 65 PERCENT OF EDUCATION FUNDS FOR CLASSROOM
RELATED INSTRUCTION; FLEXIBLE CLASS SIZE REDUCTION
IMPLEMENTATION.--Proposing an amendment to the State
Constitution to require school districts to expend at least 65
percent of their operational funds for classroom related
instruction as defined by law; to provide flexibility for school
districts in meeting class size reduction requirements by
calculating compliance at a school district average number of
students who are assigned to a teacher in specified grades; to
specify the maximum number of students who may be assigned to
one teacher in an individual class; to require implementation of
the class size reduction requirements and the classroom
instruction expenditure requirement by the beginning of the
2009-2010 school year and for each school year thereafter; to
exempt virtual classes from the class size requirements; to
provide the meaning of classroom instruction; and to authorize,
in exceptional circumstances, a school district to request from
the Governor a temporary waiver of the class size reduction
requirements or the 65-percent classroom instruction expenditure
requirement.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 557
SPONSOR(S): Kendrick
TIED BILLS:

Uses of the District School Tax

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education Appropriations Committee		Eggers	Hamon <i>K.W.H.</i>
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

District school boards are permitted to levy a property tax of not more than two mills against the taxable value of property in the county for non-operating purposes. The two mill levy is in addition to the required local effort millage and non-voted discretionary millage school boards are allowed to levy each year for current operating purposes. For a district that is in compliance with class size requirements pursuant to Section 1003.03, F.S., the bill expands the approved expenditures of the two mill revenue to allow for the payment of health insurance premiums, property and casualty insurance premiums on educational plants, and the purchase, lease, or lease-purchase of certain motor vehicles.

This bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

District school boards are authorized to levy not more than 2 mills for capital outlay projects.¹ Authorized expenditures are costs of construction, remodeling, renovation, maintenance, and repair of the educational plant; the purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to the delivery of student instruction; the purchase, lease, or lease-purchase of school buses or the payment of the cost of school buses when a school district contracts with a private entity to provide transportation services; and the costs of payments related to certain issues of certificates of participation.² Not included in this list are premiums for health and property and casualty insurance, which are funded from a district's operating budget revenues.

Certain expenditures are not authorized unless the district certifies to the Commissioner of Education that all of the district's space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive or through other means such as leasing, scheduling, rezoning, the use of technology, etc. The expenditures are the purchase, lease-purchase, or lease of driver's education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment.³

Proposed Changes

A district that has met class size requirements pursuant to Section 1003.03, F.S., is authorized to use two mill revenue for the payment of premiums for health and property and casualty insurance, and for the purchase, lease-purchase, or lease of driver's education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment.⁴ It is probable that only districts with high property values and low capital outlay needs would have sufficient two mill revenue available for these additional purposes.

In the 2004-05 fiscal year, Flagler, Gadsden, Hernando, Putnam, Santa Rosa, Suwannee, Union, Walton, and Washington were not in compliance with class size reduction requirements. In the 2005-06 fiscal year, only St. Lucie was not in compliance with class size reduction requirements. Had this bill been law in the 2005-06 fiscal year, only St. Lucie would not have been authorized to spend two mill revenue on the expanded list of authorized expenditures.

C. SECTION DIRECTORY:

Section 1 amends s. 1011.71, F.S.

Section 2 provides that this bill shall take effect July 1, 2006.

¹ Section 1011.71(2), F.S.

² Section 1011.71(5), F.S.

³ Section 1011.71(5), F.S..

⁴ Section 1003.03, F.S., implemented in 2003-04, requires school districts to reduce class sizes by two students each year until the constitutionally mandated class sizes of 18, 22, and 25, for kindergarten - grade 3, grades 4-8, and grades 9-12, respectively, are achieved. Compliance is based on district class size averages from 2003-04 to 2005-06, school averages from 2006-07 to 2007-08, and by individual classroom from 2008-09 to 2010-11. Full compliance shall be achieved by 2010-11.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Allows school districts to use revenue from the two mill capital outlay tax for premiums for health and property and casualty insurance, and certain motor vehicles.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

For districts in compliance with class size reduction requirements, the proposed legislation would allow the use of capital outlay funds generated from the two mill levy authorized by Section 1011.71, F.S., to be used for the payment of premiums for health and property and casualty insurance; and the purchase, lease-purchase, or lease of driver's education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment. The two mill levy will generate \$2.5 billion in the 2005-06 fiscal year. There are 55 districts that levy the full two mills, 9 districts that levy between .5 and 1.5 mills, and 3 districts did not levy the two mill levy. Of the districts that levy the two mill levy, Franklin county generates the most revenue per FTE at \$5,136 per FTE and Madison county the least at \$85 per FTE. It is probable that only districts with relatively high property values per FTE coupled with low capital outlay needs would have sufficient two mill revenue available for these additional purposes.

The authorization of additional expenditure purposes may decrease the amount of revenue available for school construction. Certain school districts may currently be in compliance at the district level, but may not be in compliance in future years. The Department of Education's (DOE) legislative budget request projected a \$4.2 billion class size reduction school construction need spread over five years (2006-07 through 2010-11), with \$2.0 billion requested for the 2006-07 fiscal year. However, it is important to note the following:

- Statewide FTE projections have declined significantly since the DOE estimate,
- The DOE has received the districts' five-year capital outlay plan since the DOE estimate, and
- The DOE's estimate included the cost for student growth, which historically has been locally funded.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 200.065 (9), F.S., lists expenditure categories that school boards must use in the advertisement of the projects that will be funded from two mill revenue. The bill fails to add health insurance premiums and property and casualty insurance premiums to the list of authorized projects.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 557

2006

A bill to be entitled
An act relating to uses of the district school tax;
amending s. 1011.71, F.S.; including health, property, and
casualty insurance costs as authorized uses of school
district millage; authorizing school districts meeting
certain class size requirements to use revenues generated
by the district school tax for specified purposes;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (j) is added to subsection (2) and
paragraph (e) is added to subsection (5) of section 1011.71,
Florida Statutes, to read:

1011.71 District school tax.--

(2) In addition to the maximum millage levy as provided in
subsection (1), each school board may levy not more than 2 mills
against the taxable value for school purposes to fund:

(j) Health, property, and casualty insurance costs of the
school district.

Violations of these expenditure provisions shall result in an
equal dollar reduction in the Florida Education Finance Program
(FEFP) funds for the violating district in the fiscal year
following the audit citation.

(5)

(e) Notwithstanding any other provision of this
subsection, school districts that have met the class size

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29 | requirements of s. 1003.03 may use the revenue generated by the
30 | millage levy authorized by subsection (2) for the purposes
31 | delineated in subsection (2).
32 |

33 | A district that violates these expenditure restrictions shall
34 | have an equal dollar reduction in funds appropriated to the
35 | district under s. 1011.62 in the fiscal year following the audit
36 | citation. The expenditure restrictions do not apply to any
37 | school district that certifies to the Commissioner of Education
38 | that all of the district's instructional space needs for the
39 | next 5 years can be met from capital outlay sources that the
40 | district reasonably expects to receive during the next 5 years
41 | or from alternative scheduling or construction, leasing,
42 | rezoning, or technological methodologies that exhibit sound
43 | management.

44 | Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. 557

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Education Appropriations
2 Committee

3 Representative Pickens offered the following:
4

5 **Amendment (with title amendment)**

6 On line 11 insert the following:
7

8 Section 1. Paragraph (a) of subsection (9) of section 200.065,
9 Florida Statutes, is amended to read:

10 200.065 Method of fixing millage.--

11 (9)(a) In addition to the notice required in subsection
12 (3), a district school board shall publish a second notice of
13 intent to levy additional taxes under s. 1011.71(2). Such notice
14 shall specify the projects or number of school buses anticipated
15 to be funded by such additional taxes and shall be published in
16 the size, within the time periods, adjacent to, and in
17 substantial conformity with the advertisement required under
18 subsection (3). The projects shall be listed in priority within
19 each category as follows: construction and remodeling;
20 maintenance, renovation, and repair; motor vehicle purchases;
21 new and replacement equipment; payments for educational

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

facilities and sites due under a lease-purchase agreement; payments for renting and leasing educational facilities and sites; payments of loans approved pursuant to ss. 1011.14 and 1011.15; payment of costs of compliance with environmental statutes and regulations; payment of health, property, and casualty insurance costs of the school district; payment of costs of leasing relocatable educational facilities; and payments to private entities to offset the cost of school buses pursuant to s. 1011.71(2)(i). The additional notice shall be in the following form, except that if the district school board is proposing to levy the same millage under s. 1011.71(2) which it levied in the prior year, the words "continue to" shall be inserted before the word "impose" in the first sentence, and except that the second sentence of the second paragraph shall be deleted if the district is advertising pursuant to paragraph (3) (e) :

NOTICE OF TAX FOR SCHOOL

CAPITAL OUTLAY

The (name of school district) will soon consider a measure to impose a (number) mill property tax for the capital outlay projects listed herein.

This tax is in addition to the school board's proposed tax of (number) mills for operating expenses and is proposed solely at the discretion of the school board. THE PROPOSED COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.

The capital outlay tax will generate approximately \$ (amount) , to be used for the following projects:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

(list of capital outlay projects)

All concerned citizens are invited to a public hearing to
be held on (date and time) at (meeting place) .

A DECISION on the proposed CAPITAL OUTLAY TAXES will be
made at this hearing.

===== T I T L E A M E N D M E N T =====

Remove line 3 and insert the following:

amending ss. 200.065 and 1011.71, F.S.; including health,
property, and

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

Bill No. 557

COUNCIL/COMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

1 Council/Committee hearing bill: Education Appropriations
2 Committee

3 Representative Pickens offered the following:

4
5 **Amendment (with directory amendment)**

6
7 Remove line(s) 26-43 and insert the following:

8
9 1011.71 District school tax.--

10 (5)(a) It is the intent of the Legislature that, by July
11 1, 2003, revenue generated by the millage levy authorized by
12 subsection (2) should be used only for the costs of
13 construction, renovation, remodeling, maintenance, and repair of
14 the educational plant; for the purchase, lease, or lease-
15 purchase of equipment, educational plants, and construction
16 materials directly related to the delivery of student
17 instruction; for the rental or lease of existing buildings, or
18 space within existing buildings, originally constructed or used
19 for purposes other than education, for conversion to use as
20 educational facilities; for the opening day collection for the
21 library media center of a new school; for the purchase, lease-

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

22 purchase, or lease of school buses or the payment to a private
23 entity to offset the cost of school buses pursuant to paragraph
24 (2)(i); and for servicing of payments related to certificates of
25 participation issued for any purpose prior to the effective date
26 of this act. Costs associated with the lease-purchase of
27 equipment, educational plants, and school buses may include the
28 issuance of certificates of participation on or after the
29 effective date of this act and the servicing of payments related
30 to certificates so issued. For purposes of this section,
31 "maintenance and repair" is defined in s. 1013.01.

32 (b) For purposes not delineated in paragraph (a) for which
33 proceeds received from millage levied under subsection (2) may
34 be legally expended, a district school board may spend no more
35 than the following percentages of the amount the district spent
36 for these purposes in fiscal year 1995-1996:

- 37 1. In fiscal year 2000-2001, 40 percent.
- 38 2. In fiscal year 2001-2002, 25 percent.
- 39 3. In fiscal year 2002-2003, 10 percent.

40 (c) Beginning July 1, 2003, revenue generated by the
41 millage levy authorized by subsection (2) must be used only for
42 the purposes delineated in paragraph (a).

43 (d) Notwithstanding any other provision of this
44 subsection, if through its adopted educational facilities plan a
45 district has clearly identified the need for an ancillary plant,
46 has provided opportunity for public input as to the relative
47 value of the ancillary plant versus an educational plant, and
48 has obtained public approval, the district may use revenue
49 generated by the millage levy authorized by subsection (2) for
50 the acquisition, construction, renovation, remodeling,
51 maintenance, or repair of an ancillary plant.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

A district that violates these expenditure restrictions shall have an equal dollar reduction in funds appropriated to the district under s. 1011.62 in the fiscal year following the audit citation. The expenditure restrictions do not apply to any school district that has met current year class size reduction requirements of s. 1003.03 and certifies to the Commissioner of Education that all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive during the next 5 years or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management.

===== D I R E C T O R Y A M E N D M E N T =====

Remove line(s) 12-14 and insert:

Section 1. Paragraph (j) is added to subsection (2) and subsection (5) of section 1011.71, Florida Statutes, is amended to read:

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